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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,561	06/24/2003	Anthony Wong	20341-72037	1684
23643	7590	04/29/2004	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			JAGAN, MIRELLYS	
			ART UNIT	PAPER NUMBER
			2859	
DATE MAILED: 04/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/602,561	Applicant(s) WONG ET AL.	
	Examiner Mirellys Jagan	Art Unit 2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 16 and 23 is/are rejected.
- 7) ☒ Claim(s) 2-15 and 17-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,741,627 to Fukui et al.

Fukui et al discloses a thermometer assembly comprising:

a thermometer portion (1) pivotably coupled to a cover portion (2) and formed to include a probe (5) and a housing (1) coupled to the probe, wherein the housing includes a display (3c) and a power button (3d), and the thermometer portion is pivotably moveable relative to the cover portion (2) about a pivot axis between a use position and a stowed position, the cover portion (2) including a cavity formed to receive a portion of the housing in the use and stowed positions, and a cut-out (the cavity) formed to receive the probe in the stowed position (see figure 2; column 2, lines 46-58; and column 3 line 65-column 4, line 2).

3. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 03108321 to Takagi et al.

Takagi et al disclose a thermometer assembly comprising:

a thermometer portion including a probe (2a) and a housing (2) coupled to the probe;

Art Unit: 2859

a cover portion (4) coupled to the thermometer portion; and

a means (6) for mounting the thermometer portion to the cover portion (4) for movement of the thermometer portion relative to the cover portion between a locked position and an unlocked position permitting the thermometer portion to move relative to the cover portion (see figures 1 and 2).

4. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,457,633 to Andrews.

Andrews discloses a thermometer assembly comprising:

a portion (10) including a probe (38) and a housing (50) coupled to the probe;

a cover portion (25) coupled to the portion (10); and

a means (52, 40) for mounting the portion (10) to the cover portion (25) for movement of the portion (10) relative to the cover portion (25) between a locked position, and an unlocked position that permits the portion (10) to move relative to the cover portion (25) (see figure 1; and column 3, lines 3-20).

5. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,709,476 to Wu et al.

Wu et al disclose a thermometer assembly comprising:

a thermometer portion (12) including a probe (14) and a housing (16) coupled to the probe; and

a cover portion (24) pivotally coupled to the thermometer portion;

Art Unit: 2859

wherein the cover portion defines a cavity (formed by slots 42 and 44) formed to receive at least a portion of the thermometer portion in a use position and a stowed position, and defining a cut-out (28) formed to receive the probe of the thermometer in the stowed position (see figures 1 and 4).

6. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,991,652 to Barthelemy et al.

Barthelemy et al disclose a thermometer assembly comprising:

a thermometer portion (30) including a probe (62) and a housing (54) coupled to the probe; and

a cover portion (50) pivotally coupled to the thermometer portion (30);

wherein the cover portion defines a cavity formed to receive at least a portion of the thermometer portion (at 52) in a use position and a stowed position, and defining a cut-out (is hollow) formed to receive the probe of the thermometer in the stowed position (see figure 1).

Allowable Subject Matter

7. Claims 2-15, 17-20, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Art Unit: 2859

The prior art of record does not disclose or suggest the following in combination with the remaining limitations of the claims:

An infant thermometer assembly:

comprising a cover portion having a body, a first arm appended to the body, a second arm appended to the body, wherein the first and the second arms are spaced-apart from each other to define the cavity of the cover portion and the arms of the body are coupled to the housing of the thermometer portion (see dependent claim 2).

wherein the thermometer portion includes a guide tab coupled to the housing and the cover portion includes a guide slot formed therein to receive the guide tab in the use position (see dependent claim 7).

wherein the thermometer portion includes a locking lug coupled to the housing, and the cover portion includes a slot formed to receive a portion of the locking lug therethrough and formed to receive a portion of the lug therethrough (see dependent claim 12).

wherein the mounting means includes a locking lug coupled to the housing and the cover portion includes a slot formed to receive a portion of the locking lug therethrough (see dependent claim 17).

wherein the thermometer portion is pivotally moveable relative to the cover portion between a use position where the probe of the thermometer portion extends away from the cover portion and a stowed position where the probe of the thermometer is received within a cut-out (see dependent claim 21).

Art Unit: 2859

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents disclose thermometer covers:

U.S. Patent 343,678 to Tatum

U.S. Patent 2,329,685 to Baker

EP Patent 88672 to Lebeau

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mirellys Jagan whose telephone number is 571-272-2247. The examiner can normally be reached on Monday-Friday from 9AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ
April 22, 2004



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800